

REMARKS/ARGUMENTS

Claims 7-29 are pending. Claim 7 has been revised to omit cycloalkyl or aromatic groups like phenyl as substituents for R₁, R₂ and R₃. New Claims 27-29 find support in the specification on pages 28-30. Since the broader language of Claim 7 has already been searched, addition of these new dependent claims should not raise new issues. Accordingly, the Applicants do not believe that any new matter has been introduced.

The Applicants thank Examiner Keys for the courteous and helpful discussion of October 18, 2005. The last wherein clause in Claim 7 was discussed. The Examiner indicated this claim language was confusing and may raise the issue of new matter. It was suggested that the language be clarified to address the new matter issue. The experimental data in Tables 1 and 2 of the specification were reviewed. The Examiner's concern was that when R₁, R₂ and R₃ were joined that they may form a phenyl group and tri-phenyl substituted phosphites were indicated as having relatively low activity in Tables 1 and 2. Claim 7 has now been revised to clarify its last wherein clause and preclude R₁, R₂ and R₃ from being groups such as phenyl. Accordingly, favorable consideration and allowance of this application is now respectfully requested.

Rejection—35 U.S.C. §112, first paragraph

Claims 7-26 were rejected under 35 U.S.C. 112, first paragraph as lacking adequate description and raising the issue of new matter. Claim 7 has been revised to address this issue. Accordingly, this rejection may now be withdrawn.

Rejection--35 U.S.C. §103

Claims 7-10, 16, 18, 22, 24 and 25 were rejected under 35 U.S.C. 103(a) as being anticipated by Arend et al., U.S. Patent No. 4,017,564. This rejection is moot in view of the amendment of Claim 7 which now requires that the oxygen nucleophilic agent and X are not a monodentate phosphite.

Rejection--35 U.S.C. §103

Claims 7-24 and 26 were rejected under 35 U.S.C. 103(a) as being anticipated by Kurtz et al., U.S. Patent No. 3,755,451 alone, or in view of Bryant et al., U.S. Patent No. 3,534,088. The cited prior art does not disclose or suggest the present invention, which uses a phosphite of formula (I), nor provide a reasonable expectation of success for the superior results obtained by the present invention.

While Kurtz, col. 7, lines 38-41 and col. 8, lines 43-et seq. disclose a wide variety of catalyst modifiers, including various phosphines and phosphites, there is no suggestion to specifically select phosphites of formula (I). As shown in Tables 1 (page 60) and 2 (page 62) of the specification, the selection of phosphites of formula (I) provides a significantly superior process compared to use of phosphines or other phosphites. Bryant also does not provide any such suggestion or reasonable expectation of success for the claimed process.

Accordingly, the Applicants respectfully request that this rejection be withdrawn.

CONCLUSION


In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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